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IPIB AO 2016-09

June 16, 2016

SUBJECT: Public Notice of Application Deadline in Iowa Code chapter 35C

Kevin Kilgore
1695 115th Street
Diagonal, Iowa 50845

Dear Mr. Kilgore:

This opinion is in response to your letter of May 19, 2016, requesting an opinion from the Iowa Public Information Board (IPIB) pursuant to Iowa Code section 23.6 and rule 497—1.2. We note at the outset that IPIB's jurisdiction is limited to the application of Iowa Code chapters 21, 22, and 23, and rules in Iowa Administrative Code chapter 497. Advice in a Board opinion, if followed, constitutes a defense to a subsequent complaint based on the same facts and circumstances.

FACTUAL STATEMENT:

You notify us that Iowa Code section 35C.1(3) requires that when a political subdivision is going to fill a job by competitive examination or appointment, that public notice of the application deadline for the job is required to be posted "at least ten days before the deadline in the same manner as notices of meetings are posted under section 21.4."

QUESTION:

1. Is the requirement for public notice waived if incumbents on an appointed board choose to remain as members of the board?

OPINION:

As the Board stated in IPIB AO 2015-06, we do not have the authority to issue an advisory opinion on the application of Iowa Code chapter 35C.¹ Although Iowa Code section 35C.1(3) references Iowa Code section 21.4, that reference is a direction to political subdivisions concerning how they provide notice for the job application deadlines. It does not grant authority to IPIB to issue an opinion on the application of Iowa Code chapter 35C.

¹ That opinion was issued to you on August 20, 2015. Iowa Code chapter 35C deals with veterans preference in public appointments and employments.

Board Members

Anthony Gaughan • Keith Luchtel • Jo Martin • Andrew McKean
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If a question was raised concerning the posting requirements in Iowa Code section 21.4 to ensure compliance with Iowa Code section 35C.1(3), IPIB could assist with that. However, that guidance would be limited to what was required by Iowa Code section 21.4 and would not constitute advice on Iowa Code chapter 35C or granting IPIB any authority to otherwise administer or enforce Iowa Code chapter 35C.²

BY DIRECTION AND VOTE OF THE BOARD

Suzan Stewart, Chair
Anthony Gaughan
Keith Luchtel
Jo Martin
Andrew McKean
Gary Mohr

Submitted by: W. Charles Smithson, IPIB Director

² For example, if a political subdivision that was required to post a notice under Iowa Code section 35C.1(3) had a question concerning Iowa Code section 21.4 and what was a “prominent place which is easily accessible to the public” for purposes of posting notice, IPIB would answer that question for purposes of how Iowa Code section 21.4 is interpreted.